

*Mr. Skerrett:* I may have used an unfortunate expression, but what I meant to submit to the Committee is that the affirmation of the truth of these charges must rest on him.

*Mr. Fraser:* That is another thing.

*Mr. Skerrett:* Substantially what I meant was that he has put forward this charge and adopted it as his own, and his duty is either to support it or refuse to do so.

*Mr. M. Myers:* I formally put in the statement Mr. Massey made in the House on Monday night. This Committee may then make such inquiries as it thinks fit.

*Mr. Skerrett:* Then I understand my learned friend offers no further evidence except the statement made by Mr. Massey.

*The Chairman:* It is our duty, according to the order of reference, to take into consideration the writing and publishing of the letter received by the member for Franklin, and also the question of its truth.

*Mr. M. Myers:* Will you allow me to refer to the order of reference—"That as the writing and publishing of the said extract has been declared by the House to be a breach of its privileges, the writing and publishing of such a letter and such extract, also the question of the truth or otherwise of the charge or charges alleged in such extract or letter, be referred to the following Committee."

*Mr. Skerrett:* And also the question of the truth.

*Mr. M. Myers:* Yes. As to the question of the truth, Mr. Massey has made a statement in the House. May I point out that it is the writing and publishing of the "extract" that is primarily referred to.

*Mr. Skerrett:* No, the writing and publishing of "such extract."

*Mr. M. Myers:* I am reading from a copy I received from the clerk with Mr. Russell's name on it, and that reads in this way.

*Mr. Skerrett:* You notice that it is ordered that the Committee take into full consideration the truth or otherwise of such writing.

*Mr. M. Myers:* Yes, but it does not affect what I have already said. As far as we are concerned, the statement made by Mr. Massey in the House is put in. It is open to the Committee to make inquiries.

*The Chairman:* Is it your intention, Mr. Myers, to produce the letter you referred to?

*Mr. M. Myers:* No.

*The Chairman:* You refuse to do so?

*Mr. M. Myers:* I propose to give reasons.

*The Chairman:* Will you give the name of the writer?

*Mr. M. Myers:* No. The contents of the letter are of a confidential nature. Mr. Massey has frankly and candidly stated in the House that he made a mistake in reading the extract from the letter—or, rather, the copy of an extract from the letter. He has admitted that he made a mistake. To ask Mr. Massey now to produce the letter or to give the name of the writer is to ask him to do a grievous wrong. I propose to refer the Committee to "The Encyclopædia of the Laws of England," Volume XI, Second Edition, at page 618, under the title of "Private Letters." I do not propose to read the whole passage, but I will hand the book to you, Mr. Chairman, so that you can see if there is anything material that I may by chance have omitted. I propose to read only such portions as appear to me to be material: "The author of a letter has, at common law, a property in the literary composition so long as he keeps it to himself. But that property is lost by publication." . . . "The writer has other rights independent of property which enable him to interfere with the unlimited use of the letter by the recipient." . . . "The recipient may use it for any lawful purpose, but publication is not such a lawful purpose." Now, I propose to give, directly, the authorities which are cited by the learned author of this article in support of his propositions. Then a little lower down this statement is made: "Where a man writes a letter it is not in the nature of a gift to the receiver: it is only a special property in the receiver. Possibly the property of the paper may belong to him, but this does not give a license to any person whatsoever to publish it to the world, for at most the receiver has only a joint property with the writer." This view has been approved in *Labouchere v. Hess* (1898—77 L.T., 559). "The Court accordingly, without proceeding so far as to decree the restoration of letters, will restrain any person in the possession of letters from publishing them against the will of the writer, except under special circumstances. What would constitute such special circumstances it is difficult exactly to determine, but publication will not be restrained when necessary for purposes of justice, or for the vindication of the receiver's character." Now, I propose to refer for a moment to the propositions I put. To begin with, then, the writer of this letter could clearly obtain from the Supreme Court an injunction to prevent Mr. Massey, the recipient of the letter, from making use of it. Now, even supposing that a case arose in Court, and the question arose as to whether a document of this kind should be produced, the most that the Court could or would do is this—namely, to order the production of the letter upon an undertaking being given by the party asking for its production that it would not be made use of for any collateral purpose. In this case, to produce that letter might expose two or three persons—the writer of the letter, and any person named in it—to libel or slander actions. Even supposing this Committee were to say, "We will order the production of the letter upon Mr. Payne giving an undertaking not to bring an action," that would not be sufficient, because the undertaking would not be binding on Mr. Payne. I submit that this Committee has no power to ask for such an undertaking, or to enforce it if given; and not only that, there might be other persons to whom a right of action might accrue in consequence of the production of this letter, and those persons would not be bound by any undertaking given by Mr. Payne. Under these circumstances it is submitted that this Committee ought not to ask for the production of the letter; and if this Committee does ask for it I shall certainly take the responsibility of advising Mr. Massey that it would be most improper for him to give it up. I said I would refer to authorities, and I desire to refer to one case cited